Chris Daniel - District Clerk Harris County Envelope No. 19466863

By: Marcella Hill Filed: 9/15/2017 2:22 PM

TAYLOR BOOTH,
Plaintiff

v.

HARRIS COUNTY, TEXAS

WRIGHT NATIONAL FLOOD
INSURANCE SERVICES, LLC,
Defendant

S IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

JUDICIAL DISTRICT

ORIGINAL PETITION

Plaintiff, Taylor Booth, files this Original Petition:

Nature of the Case

This is a breach of contract case in which a national insurance company entered into a contract to provide flood insurance protection of \$280,000, accepted and retained the premium, and then retroactively changed the terms of the contract to provide only \$27,200 in coverage. Plaintiff seeks a declaratory judgment as to his contract rights and damages for breach of contract.

Parties

Plaintiff is an individual residing in Harris County.

Defendant is a foreign limited liability company. Defendant may be served through its registered agent CT Corporation System, 1999 Bryan St. Suite 900, Dallas, TX 75201.

Designations

Discovery Control Plan

Plaintiff intends to conduct discovery under Level 2 of the Texas Rules of Civil Procedure, Rule 190.3.

Claim for Relief

Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000, and non-monetary relief.

Jurisdiction

This Court has subject matter jurisdiction over the lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

This Court has personal jurisdiction over defendant because conducts business in this state and, specifically, entered into the contract at issue in Texas, with a Texan, concerning Texas property.

Venue

Venue is proper in this county because all or a substantial part of the events or omissions giving rise to the claim occurred in this county. TCPRC § 15.002(a)(1).

Facts

Taylor Booth is a young Houston resident. On 2016, Taylor purchased his first home, which is located at 9422 Meadowbriar Ln, Houston, Texas, 77063.

Taylor applied for and purchased a policy covering flood insurance from defendant's agent, Serna Insurance Agency, Inc., on November 9, 2016 for \$200,000 in insurance protection for his home and \$80,000 for its contents. Taylor was informed

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that the policy was subject to review by defendant and a statutory waiting period of 30 days to be effective.

Taylor paid the premium. Defendant reviewed the application, issued the policy, and accepted the premium. The waiting period expired, and Taylor's policy became a valid and enforceable contract for flood insurance protection of his home.

Hurricane Harvey struck Houston on August 25, 2017. Taylor's home suffered severely flood damage, and he promptly filed a claim.

On or about September 1, defendant's agent informed Taylor that defendant had unilaterally changed the terms of coverage to \$17,600 for the building and \$9600 for contents.

Taylor was later informed that defendant had determined (allegedly) in February 2017 that the home had suffered three previous losses by flooding -- information unknown to plaintiff, but known to defendant at the time it accepted the contract.

Taylor was provided later with a letter purporting to have been mailed on February 21, 2017 cancelling and reissuing his insurance and instructing him to pay an additional premium in order to retain the insurance coverage already agreed. Taylor never received the letter. The agent also claimed never to have received it. As a result, Taylor had no knowledge or notice of the retroactive change and took no action.

It is entirely possible that the letter was entirely a fabrication and printed after the fact. If defendant had any right to cancel the policy--which plaintiff denies--it took no further action to inform its insured and simply kept the premium.

Causes of Action

Count 1 -- Declaratory Judgment

A ripe, justiciable dispute exists as to the amount of coverage and terms of plaintiff's contract with defendant. Plaintiff requests a judicial declaration that his contract of insurance provides him with \$200,000 building and \$80,000 contents coverage. Plaintiff requests supplemental relief to enforce his contractual rights and an award of costs, including reasonable and necessary attorney's fees, as is just.

Count 2 -- Breach of Contract

Based on the facts alleged, plaintiff has a valid contract with defendant. Defendant has breached the contract. Plaintiff has suffered injury proximately caused by the breach. Plaintiff requests an award of actual damages. Plaintiff further requests an award of reasonable and necessary attorney's fees. Presentment of a claim has been made pursuant to § 38.001 of the Texas CPRC.

Conditions Precedent

All conditions precedent to plaintiff's claim for relief have been performed or have occurred.

Jury Demand

Plaintiff demands a jury trial and tenders the appropriate fee.

Request for Disclosure

Plaintiff requests that defendant disclose, within 50 days of the service of this request, the information or material described in TRCP Rule 194.2.

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Conclusion and Prayer

Plaintiff requests that this Court issue citation for defendant to appear and answer, and that plaintiff be awarded judgment against defendant for the following:

- 1. Actual damages
- 2. Declaratory judgment and supplemental relief to enforce plaintiff's rights.
- 3. Prejudgment and postjudgment interest
- 4. Court costs
- 5. Attorney's fees
- 6. All other relief to which plaintiff is entitled.

Respectfully Submitted,

FRYAR LAW FIRM, P.C.

/s/ Eric Fryar
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Texas Bar No. 07495770
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Christina D. Richardson
Texas Bar No. 24070495
Email: crichardson@fryarlawfirm.com
912 Prairie Street, Suite 100
Houston, Texas 77002-3145
Tel. (281) 715-6396
Fax (281) 605-1888

Attorney in Charge for Plaintiff



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HARRIS COUNTY, TEXAS

9/15/2017 2:22:42 PM Case 4:17-cv-03187 Conturned Intermediation Supering 20/20/17 Chrisppaniel - District Clerk Harris County

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□ Appeal from Municipal or Justice Court □ Declaratory Judg □ Arbitration-related □ Garnishment □ Attachment □ Interpleader □ Bill of Review □ License □ Certiorari □ Mandamus □ Class Action □ Post-judgment 4. Indicate damages sought (do not select if it is a family law case);			gment	☐ Prejudgment Remedy ☐ Protective Order ☐ Receiver ☐ Sequestration ☐ Temporary Restraining Order/Injunction ☐ Turnover			
Less than \$100,000, including	damages of any kind, penalties, co	sts, exper	nses, pre-judgment intere	est, and attorney fees			
Less than \$100,000 and non-r Over \$100,000 but not more Over \$200,000 but not more t Over \$1,000,000	nonetary relief than \$200,000		HIBIT B				

EXHIBIT B



Certified Document Number: 76651889 Total Pages: 1

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Case 4:17-cv-03187 Document 1-2 Filed in TXSD on 10/20/17 Christ Particle Clerk CIVIL PROCESS REQUEST FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PERCENT SERVED TO SERVED THE PERCENT OF THE PERCENT O FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

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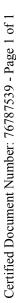


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HARRIS COUNTY, TEXAS



* Date:



CHRIS DANIEL

HARRIS COUNTY DISTRICT CLERK

Civil Process Pick-Up Form

CAUSE NUMBER:	2017 - 61088		
	COURT 215		
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*CIVIL PROCESS SERVER:	•		
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RECORDER'S MEMORANDUM
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